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HEALTH LAWS OF VIRGINIA

I. ADMINISTRATIVE PROCESS ACT **[from Chapter 1.1:1 of Title 9]**

ARTICLE 1. General Provisions

§9-6.14:4.1. Exemptions and exclusions

- A. Although required to comply with §9-6.18 of the Virginia Register Act (§9-6.15 et seq.), the following agencies are exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§9-6.14:14.1, 9-6.14:21 and 9-6.14:22:

...

29. The Board of Health is promulgating the list of diseases that shall be reported to the Department of Health pursuant to §32.1-35.

II. DISEASE PREVENTION AND CONTROL **[from Chapter 2 of Title 32.1]**

ARTICLE 1. Reporting of Diseases.

§ 32.1-35. List and reports of diseases.

The Board shall promulgate from time to time a list of diseases, including diseases caused by exposure to any toxic substance as defined in §32.1-239, which shall be required to be reported. The Board may classify such diseases and prescribe the manner and time of such reporting.

§ 32.1-36. Reports by physicians and laboratory directors.

- A. Every physician practicing in this Commonwealth who shall diagnose or reasonably suspect that any patient of his has any disease required by the Board to be reported and every director of any laboratory doing business in this Commonwealth which performs any test whose results indicate the presence of any such disease shall make a report within such time and in such manner as may be prescribed by regulations of the Board.
- B. Any physician who diagnoses a venereal disease in a child twelve years of age or under shall, in addition to the requirements of subsection A hereof, report the matter, in accordance with the provisions of §63.1-248.3, unless the physician reasonably believes that the infection was acquired congenitally or by a means other than sexual abuse.
- C. Any physician practicing in this Commonwealth shall report to the local health department the identity of any patient of his who has tested positive for exposure to human immunodeficiency virus as demonstrated by such test or tests as are approved by the Board for this purpose. However, there is no duty on the part of the physician to notify any third party other than the local health department of such test result, and a cause of action shall not arise from any failure to notify any other third party.
- D. Upon investigation by the local health department of a patient reported pursuant to subsection A, the Commissioner may, to the extent permitted by law, disclose the patient's identity and disease to the patient's employer if the Commissioner determines that (i) the patient's employment

responsibilities require contact with the public and (ii) the nature of the patient's disease and nature of contact with the public constitutes a threat to the public health.

The patient's identity and disease state shall be confidential as provided in §§32.1-36.1 and 32.1-41. Any unauthorized disclosure of reports made pursuant to this section shall be subject to the penalties of §32.1-27.

- E. Physicians and laboratory directors may voluntarily report additional information at the request of the Department of Health for special surveillance or other epidemiological studies.

§ 32.1-36.1. Confidentiality of test for human immunodeficiency virus; civil penalty; individual action for damages or penalty.

- A. The results of every test to determine infection with human immunodeficiency virus shall be confidential. Such information may only be released to the following persons:
1. The subject of the test or his legally authorized representative.
 2. Any person designated in a release signed by the subject of the test or his legally authorized representative.
 3. The Department of Health.
 4. Health care providers for purposes of consultation or providing care and treatment to the person who was the subject of the test or providing care and treatment to a child of a woman who, at the time of such child's birth, was known to be infected with human immunodeficiency virus.
 5. Health care facility staff committees which monitor, evaluate, or review programs or services.
 6. Medical or epidemiological researchers for use as statistical data only.
 7. Any person allowed access to such information by a court order.
 8. Any facility which procures, processes, distributes or uses blood, other body fluids, tissues or organs.
 9. Any person authorized by law to receive such information.
 10. The parents or other legal custodian of the subject of the test if the subject is a minor.
 11. The spouse of the subject of the test.
 12. Departments of health located outside the Commonwealth by the Virginia Department of Health for the purposes of disease surveillance and investigation.
- B. In any action brought under this section, if the court finds that a person has willfully or through gross negligence made an unauthorized disclosure in violation of this section, the Attorney General, any attorney for the Commonwealth, or any attorney for the county, city or town in which the violation occurred may recover for the Literary Fund, upon petition to the court, a civil penalty of not more than \$5,000 per violation.
- C. Any person who is the subject of an unauthorized disclosure pursuant to this section shall be entitled to initiate an action to recover actual damages, if any, or \$100, whichever is greater. In addition, such person may also be awarded reasonable attorney's fees and court costs.
- D. This section shall not be deemed to create any duty on the part of any person who receives such test results, where none exists otherwise, to release the results to a person listed herein as authorized to receive them.

§ 32.1-37. Reports by persons other than physicians.

- A. The person in charge of any medical care facility, school or summer camp as defined in §35.1-1 shall immediately make or cause to be made a report of a disease required by the Board to be reported when such information is available to that person and that person has reason to believe

that no physician has reported such disease as provided in §32.1-36. Such report shall be made by telephone or in person to the local health director or to the Commissioner.

- B. The person in charge of any medical care facility, school or summer camp as defined in §35.1-1 may also voluntarily report additional information at the request of the Department of Health for special surveillance or other epidemiological studies.

§ 32.1-37.1. Report of diseases infecting dead human bodies.

Upon transferring custody of any dead body to any person practicing funeral services or his agent, any hospital, nursing facility or nursing home, adult care residence, or correctional facility shall, at the time of transfer, notify the person practicing funeral services or his agent if the individual was known to have had immediately prior to death an infectious disease which may be transmitted through exposure to any bodily fluids.

Any facility or members of its staff specified in this section shall not be liable for injury resulting from ordinary negligence in failing to identify, as herein prescribed, a dead body of a person known to have had an infectious disease immediately prior to death. The Board of Health shall determine the infectious diseases for which notification is required pursuant to this section.

§ 32.1-37.2. Informed consent for testing for human immunodeficiency virus; condition on disclosure of test results; counseling required; exceptions.

- A. Prior to performing any test to determine infection with human immunodeficiency virus, the subject of the test shall be given an oral or written explanation of the meaning of the test. Except as otherwise authorized in this Code, informed consent shall be obtained before such a test is performed.

Informed consent for testing for infection with human immunodeficiency virus shall be deemed to have been obtained (i) when an individual seeks the services of a facility offering anonymous testing for infection with human immunodeficiency virus; (ii) when blood specimens which were obtained for routine diagnostic purposes are tested in order to conduct seroprevalence studies of infection with human immunodeficiency virus if such studies are designed to prevent any specimen from being identified with any specific individual; and (iii) when an individual donates or sells his blood.

- B. Every person who is the subject of any test to determine infection for human immunodeficiency virus shall be afforded the opportunity for individual face-to-face disclosure of the test results and appropriate counseling. Appropriate counseling shall include, but not be limited to, the meaning of the test results, the need for additional testing, the etiology, prevention and effects of acquired immunodeficiency syndrome, the availability of appropriate health care, mental health care and social services, the need to notify any person who may have been exposed to the virus and the availability of assistance through the Department of Health in notifying such individuals.
- C. Opportunity for face-to-face disclosure of the test results and appropriate counseling shall not be required when the tests are conducted by blood collection agencies. However, all blood collection agencies shall notify the Board of Health of any positive tests.
- D. In the case of a person applying for accident and sickness or life insurance who is the subject of a test to determine infection for human immunodeficiency virus, insurers' practices including an explanation of the meaning of the test, the manner of obtaining informed consent, the method of disclosure of the test results and any counseling requirements shall be as set forth in the regulations of the State Corporation Commission.

§ 32.1-38. Immunity from liability.

Any person making a report or disclosure required or authorized by this chapter, including any voluntary reports submitted at the request of the Department of Health for special surveillance or other epidemiological studies, shall be immune from civil liability or criminal penalty connected therewith unless such person acted with gross negligence or malicious intent. Further, except for such reporting requirements as may be established in this chapter or by any regulation promulgated pursuant thereto, there shall be no duty on the part of any blood collection agency or tissue bank to notify any other person of any reported test results, and a cause of action shall not arise from any failure by such entities to notify others. Neither the Commissioner nor any local health director shall disclose to the public the name of any person reported or the name of any person making a report pursuant to this chapter.

ARTICLE 2. Investigation of Disease.

§ 32.1-39. Surveillance and investigation.

The Board shall provide for the surveillance of and investigation into all preventable diseases and epidemics in this Commonwealth and into the means for the prevention of such diseases and epidemics. Surveillance and investigation may include contact tracing in accordance with the regulations of the Board. When any outbreak or unusual occurrence of a preventable disease shall be identified through reports required pursuant to Article 1 (§32.1-35 et seq.) of this chapter, the Commissioner or his designee shall investigate the disease in cooperation with the local health director or directors in the area of the disease. If in the judgment of the Commissioner the resources of the locality are insufficient to provide for adequate investigation, he may assume direct responsibility and exclusive control of the investigation, applying such resources as he may have at his disposal. The Board may issue emergency regulations and orders to accomplish the investigation.

§ 32.1-40. Authority of Commissioner to examine medical records.

Every practitioner of the healing arts and every person in charge of any medical care facility shall permit the Commissioner or his designee to examine and review any medical records which he has in his possession or to which he has access upon request of the Commissioner or his designee in the course of investigation, research or studies of diseases or deaths of public health importance. No such practitioner or person shall be liable in any action at law for permitting such examination and review.

§ 32.1-41. Anonymity of patients and practitioners to be preserved in use of medical records.

The Commissioner or his designee shall preserve the anonymity of each patient and practitioner of the healing arts whose records are examined pursuant to §32.1-40 except that the Commissioner, in his sole discretion, may divulge the identity of such patients and practitioners if pertinent to an investigation, research or study. Any person to whom such identities are divulged shall preserve their anonymity.

ARTICLE 3. Disease Control Measures.

§ 32.1-42. Emergency rules and regulations.

The Board may promulgate regulations and orders to meet any emergency or to prevent a

potential emergency caused by a disease dangerous to public health.

§ 32.1-43. Authority of Commissioner to require quarantine, etc.

The Commissioner shall have authority to require quarantine, vaccination or treatment of any individual when he determines any such measure to be necessary to control the spread of any disease of public health importance.

§ 32.1-44. Isolated or quarantined person may choose method of treatment.

The provisions of this chapter shall not be construed to prevent or restrict any isolated or quarantined person from choosing his own method of treatment or to limit any diseased person in his right to choose or select whatever method or mode of treatment he may believe to be the most efficacious in the cure of his ailment.

§ 32.1-45. Expense of treatment.

Except as specifically provided by law, the provisions of this chapter shall not be construed as relieving any individual of the expense, if any, of any treatment.

§ 32.1-45.1. Deemed consent to testing and release of test results related to infection with human immunodeficiency virus or hepatitis B or C viruses.

- A. Whenever any health care provider, or any person employed by or under the direction and control of a health care provider, is directly exposed to body fluids of a patient in a manner which may, according to the then current guidelines of the Centers for Disease Control, transmit human immunodeficiency virus or hepatitis B or C viruses, the patient whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such patient shall also be deemed to have consented to the release of such test results to the person who was exposed. In other than emergency situations, it shall be the responsibility of the health care provider to inform patients of this provision prior to providing them with health care services which create a risk of such exposure.
- B. Whenever any patient is directly exposed to body fluids of a health care provider, or of any person employed by or under the direction and control of a health care provider, in a manner which may, according to the then current guidelines of the Centers for Disease Control, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the patient who was exposed.
- C. For the purposes of this section, "*health care provider*" means any person, facility or agency licensed or certified to provide care or treatment by the Department of Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Rehabilitative Services, or the Department of Social Services, any person licensed or certified by a health regulatory board within the Department of Health Professions except for the Boards of Funeral Directors and Embalmers and Veterinary Medicine or any personal care agency contracting with the Department of Medical Assistance Services.
- D. "*Health care provider*," as defined in subsection C of this section, shall be deemed to include any person who renders emergency care or assistance, without compensation and in good faith, at the scene of an accident, fire, or any life-threatening emergency, or while en route therefrom to any hospital, medical clinic or doctor's office during the period while rendering such emergency care

or assistance. The Department of Health shall provide appropriate counseling and opportunity for face-to-face disclosure of any test results to any such person.

- E. Whenever any law-enforcement officer is directly exposed to body fluids of a person in a manner which may, according to the then current guidelines of the Centers for Disease Control, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the law-enforcement officer who was exposed. In other than emergency situations, it shall be the responsibility of the law-enforcement officer to inform the person of this provision prior to the contact which creates a risk of such exposure.
- F. Whenever a person is directly exposed to the body fluids of a law-enforcement officer in a manner which may, according to the then current guidelines of the Centers for Disease Control, transmit human immunodeficiency virus or hepatitis B or C viruses, the law-enforcement officer whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The law-enforcement officer shall also be deemed to have consented to the release of such test results to the person.
- G. For the purposes of this section, "law-enforcement officer" means a person who is both (i) engaged in his public duty at the time of such exposure and (ii) employed by any sheriff's office, any adult or youth correctional facility, or any state or local law-enforcement agency, or any agency or department under the direction and control of the Commonwealth or any local governing body that employs persons who have law-enforcement authority.
- H. If the person whose blood specimen is sought for testing refuses to provide such specimen, any person potentially exposed to the human immunodeficiency virus or hepatitis B or C viruses, or the employer of such person, may petition the general district court of the county or city in which the person whose specimen is sought resides or resided, or, in the case of a nonresident, the county or city where the health care provider or law-enforcement agency has its principal office, for an order requiring the person to provide a blood specimen or to submit to testing and to disclose the test results in accordance with this section. At any hearing before the court, the person whose specimen is sought or his counsel may appear. The court shall be advised by the Commissioner or his designee prior to entering any testing order. If a testing order is issued, both the petitioner and the person from whom the blood specimen is sought shall receive counseling and opportunity for face-to-face disclosure of any test results by a licensed practitioner or trained counselor.

§ 32.1-45.2. Public safety employees; testing for blood-borne pathogens; procedure available for certain citizens; definitions.

- A. If, in the course of employment, an employee of a public safety agency is involved in a possible exposure prone incident, the employee shall immediately, or as soon thereafter as practicable, notify the agency of the incident in accordance with the agency's procedures for reporting workplace accidents.
- B. If, after reviewing the facts of the possible exposure prone incident with the employee and after medical consultation, the agency concludes that it is reasonable to believe that an exposure prone incident may have occurred, (i) the agency shall request the person whose body fluids were involved to give informed consent, as provided in §32.1-37.2, to submit to testing for hepatitis B or C virus and human immunodeficiency virus and to authorize disclosure of the test results or (ii) if the person is deceased, the agency shall request the custodian of the remains to preserve a

specimen of blood and shall request the decedent's next of kin to provide informed consent, as provided in §32.1-37.2, to such testing and to authorize disclosure of the test results.

- C. If a person is involved in a possible exposure prone incident involving the body fluids of an employee of a public safety agency, the person may request the agency to review the facts of the possible exposure prone incident for purposes of obtaining the employee's informed consent, as provided in §32.1-37.2, to test for hepatitis B or C virus and human immunodeficiency virus and to authorize disclosure of the test results. If, after reviewing the facts and after medical consultation, the agency concludes it is reasonable to believe an exposure prone incident involving the person and the employee may have occurred, (i) the agency shall request the employee whose body fluids were involved to give informed consent to submit to testing for hepatitis B or C virus and human immunodeficiency virus and to authorize disclosure of the test results or (ii) if the employee is deceased, the agency shall request the custodian of the remains to preserve a specimen of blood and shall request the decedent's next of kin to provide informed consent, as provided in §32.1-37.2, to such testing and to authorize disclosure of the test results.
- D. If informed consent is refused under subsection B of this section, the public safety agency or the employee may petition the general district court of the city or county in which the person resides or resided, or in the case of a nonresident, the city or county of the public safety agency's principal office, to determine whether an exposure prone incident has occurred and to order testing and disclosure of the test results.

If informed consent is refused under subsection C of this section, the person involved in the possible exposure prone incident may petition the general district court of the city or county of the public safety agency's principal office to determine whether an exposure prone incident has occurred and to order testing and disclosure of the test results.

- E. If the court finds by a preponderance of the evidence that an exposure prone incident has occurred, it shall order testing for hepatitis B or C virus and human immunodeficiency virus and disclosure of the test results. The court shall be advised by the Commissioner or his designee in making this finding. The hearing shall be held in camera as soon as practicable after the petition is filed. The record shall be sealed.
- F. A party may appeal an order of the general district court to the circuit court of the same jurisdiction within ten days from the date of the order. Any such appeal shall be de novo, in camera, and shall be heard as soon as possible by the circuit court. The circuit court shall be advised by the Commissioner or his designee. The record shall be sealed. The order of the circuit court shall be final and nonappealable.
- G. Disclosure of any test results provided by this section shall be made to the district health director of the jurisdiction in which the petition was brought or the district in which the person or employee was tested. The district health director or his designee shall inform the parties of the test results and counsel them in accordance with subsection B of §32.1-37.2.
- H. The results of the tests shall be confidential as provided in §32.1-36.1.
- I. No person known or suspected to be positive for infection with hepatitis B or C virus or human immunodeficiency virus shall be refused services for that reason by any public safety agency personnel.
- J. For the purpose of this section and for no other purpose, the term "employee" shall include: (i) any person providing assistance to a person employed by a public safety agency who is directly affected by a possible exposure prone incident as a result of the specific crime or specific circumstances involved in the assistance and (ii) any victim of or witness to a crime who is directly affected by a possible exposure prone incident as a result of the specific crime.
- K. This section shall not be deemed to create any duty on the part of any person where none exists

otherwise, and a cause of action shall not arise from any failure to request consent or to consent to testing under this section. The remedies available under this section shall be exclusive.

L. For the purposes of this section, the following terms shall apply:

"*Exposure prone incident*" means a direct exposure to body fluids of another person in a manner which may, according to the then current guidelines of the Centers for Disease Control, transmit hepatitis B or C virus or human immunodeficiency virus and which occurred during the commission of a criminal act, during the performance of emergency procedures, care or assistance, or in the course of public safety or law-enforcement duties.

"*Public safety agency*" means any sheriff's office and any adult or youth correctional, law-enforcement, fire safety organization or any agency or department that employs persons who have law-enforcement authority and which is under the direction and control of the Commonwealth or any local governing body.

§ 32.1-45.3. Certain testing of gamete donors required; Board to establish testing protocol.

Any person using donor gametes to treat patients for infertility by artificial insemination, in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer or any other gamete, zygote or embryo transfer or other intervening medical technology using sperm or ova, shall, prior to using any donor gametes for such procedures, ascertain the HIV status of the donor through testing as provided in Board of Health regulations. The Board of Health shall promulgate regulations establishing a testing protocol for gamete donors.

As used in this section:

"*Donor*" means an individual unrelated by marriage to the recipient who contributes the sperm or ova used in the procedures noted above.

"*Gametes*" means either sperm or ova.

§ 32.1-46. Immunization of children against certain diseases; authority to share immunization records.

A. The parent, guardian or person standing in loco parentis of each child within this Commonwealth shall cause such child to be immunized by vaccine against diphtheria, tetanus, whooping cough and poliomyelitis before such child attains the age of one year, against *Haemophilus influenzae* type b before he attains the age of thirty months, and against measles (rubeola), German measles (rubella) and mumps before such child attains the age of two years. All children born on or after January 1, 1994, shall be required to receive immunization against hepatitis B before their first birthday. All children shall also be required to receive a second dose of measles (rubeola) vaccine in accordance with the regulations of the Board. The Board's regulations shall require that all children receive a second dose of measles (rubeola) vaccine prior to first entering kindergarten or first grade and that all children who have not yet received a second dose of measles (rubeola) vaccine receive such second dose prior to entering the sixth grade. After July 1, 2001, all children who have not yet received immunization against hepatitis B shall receive such immunization prior to entering the sixth grade. All children born on or after January 1, 1997, shall be required to receive immunization against varicella zoster (chicken pox), not earlier than the age of twelve months. Children who have evidence of immunity as demonstrated by laboratory confirmation of immunity or a reliable medical history of disease are exempt from such requirement. The parent, guardian or person standing in loco parentis may have such child immunized by a physician or may present the child to the appropriate local health department which shall administer the required vaccines without charge.

- B. A physician or local health department administering a vaccine required by this section shall provide to the person who presents the child for immunizations a certificate which shall state the diseases for which the child has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated.
- C. The vaccines required by this section shall meet the standards prescribed in, and be administered in accordance with, regulations of the Board.
- D. The provisions of this section shall not apply if:
 - 1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board, or
 - 2. The parent or guardian presents a statement from a physician licensed to practice medicine in Virginia which states that the physical condition of the child is such that the administration of one or more of the required immunizing agents would be detrimental to the health of the child.
- E. For the purpose of protecting the public health by ensuring that each child receives age-appropriate immunizations, any physician, licensed institutional health care provider, local or district health department, and the Department of Health may share immunization and child locator information, including, but not limited to, the month, day, and year of each administered immunization; the child's name, address, telephone number, birth date, and social security number; and the parents' names. The immunization information; the child's name, address, telephone number, birth date, and social security number; and the parents' names shall be confidential and shall only be shared for the purposes set out in this subsection.

§ 32.1-47. Exclusion from school of children not immunized.

Upon the identification of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in a public or private school, the Commissioner shall have the authority to require the exclusion from such school of all children who are not immunized against that disease.

§ 32.1-48. Powers of Commissioner in epidemic.

Nothing in this article shall preclude the Commissioner from requiring immediate vaccination of all persons in case of an epidemic of any disease of public health importance for which a vaccine exists other than a person to whose health the administration of a vaccine would be detrimental as certified in writing by a physician licensed to practice medicine in this Commonwealth.

ARTICLE 3.01. Isolation of Certain Persons with Communicable Diseases.

§ 32.1-48.01. Definitions.

As used in this article, unless the context requires a different meaning:

"Appropriate precautions" means those specific measures which have been demonstrated by current scientific evidence to assist in preventing transmission of a communicable disease. Appropriate precautions will vary according to the disease.

"At-risk behavior" means engaging in acts which a person, who has been informed that he is infected with a communicable disease, knows may infect other persons without taking appropriate precautions to protect the health of the other persons.

"Communicable disease" means an illness of public health significance, as determined by the Commissioner of Health, caused by a specific infectious agent which may be transmitted directly or indirectly from one person to another.

§ 32.1-48.02. Investigations of verified reports or medical evidence; counseling; outpatient and emergency treatment orders; custody upon emergency order.

- A. Upon receiving at least two verified reports or upon receiving medical evidence that any person who is reputed to know that he is infected with a communicable disease is engaging in at-risk behavior, the Commissioner or his designee may conduct an investigation through an examination of the records of the Department and other medical records to determine the disease status of the individual and that there is cause to believe he is engaging in at-risk behavior.
- B. If the investigation indicates that the person has a communicable disease caused by a non-airborne microorganism and that there is cause to believe he is engaging in at-risk behavior, the Commissioner or his designee may issue an order for such person to report to the local or district health department in the jurisdiction in which he resides to receive counseling on the etiology, effects and prevention of the specific disease. The person conducting the counseling shall prepare and submit a report to the Commissioner or his designee on the counseling session or sessions in which he shall document that the person so counseled has been informed about the acts that constitute at-risk behavior, appropriate precautions, and the need to use appropriate precautions. The counselor shall also report any statements indicating the intentions or understanding of the person so counseled.
- C. If the investigation, described in subsection A, indicates that the person has a communicable disease caused by an airborne microorganism which causes serious disease and can result in death and that the person has refused or failed to adhere to a prescribed course of treatment and, despite counseling, is engaging in conduct that places uninfected persons at risk of contracting such airborne communicable disease, the Commissioner or his designee may issue an outpatient treatment order for such person to report to the local or district health department in the jurisdiction in which he resides to receive appropriate outpatient treatment and education concerning his disease.
- D. If the investigation, described in subsection A, indicates that the person has a communicable disease caused by an airborne microorganism which causes serious disease and can result in death and, despite documented and appropriate counseling, is engaging in conduct that unreasonably places uninfected persons at risk of contracting such airborne communicable disease and medical data demonstrate that he poses an imminent threat to the health of others, the Commissioner may issue an emergency order requiring such person to be taken immediately into custody and placed, for a period, not to exceed forty-eight hours, in the least restrictive, willing facility providing protection of the health of others and appropriate treatment to the person upon finding that at least one of the following conditions is met:
 - 1. The person has refused or failed to report to the local health department after having been ordered to do so pursuant to subsection C, for appropriate outpatient treatment and education concerning his disease;
 - 2. The person has a documented history of failure to adhere to a prescribed course of treatment; or
 - 3. Documentation exists that the person has indicated that he will not comply with the prescribed treatment.

If the specified forty-eight-hour period terminates on a Saturday, Sunday or legal holiday, such person may be detained until the next day which is not a Saturday, Sunday, or legal holiday. In no event may the person be detained for longer than seventy-two hours or ninety-six hours when the specified forty-eight-hour period terminates on a Saturday, Sunday or legal holiday. For purposes of this subsection, a Saturday, Sunday, or legal holiday shall be deemed to include the time period up to 8:00 a.m. of the next day which is not a Saturday, Sunday, or legal holiday. During this

period, the Commissioner shall proceed in accordance with §32.1-48.03.

- E. In order to implement an emergency order issued pursuant to subsection D of this section, all state and local law-enforcement officers are authorized to take custody of the subject of such emergency order immediately upon issuance of the emergency order by the Commissioner.

§ 32.1-48.03. Petition for hearing; temporary detention.

- A. Upon receiving a verified report or upon receiving medical evidence that any person who has been counseled pursuant to §32.1-48.02 has continued to engage in at-risk behavior, the Commissioner or his designee may petition the general district court of the county or city in which such person resides to order the person to appear before the court to determine whether isolation is necessary to protect the public health.
- B. If such person cannot be conveniently brought before the court, the court may issue an order of temporary detention. The officer executing the order of temporary detention shall order such person to remain confined in his home or another's residence or in some convenient and willing institution or other willing place for a period not to exceed forty-eight hours prior to a hearing. An electronic device may be used to enforce such detention in the person's home or another's residence. The institution or other place of temporary detention shall not include a jail or other place of confinement for persons charged with criminal offenses.

If the specified forty-eight-hour period terminates on a Saturday, Sunday or legal holiday, such person may be detained until the next day which is not a Saturday, Sunday or legal holiday. In no event may the person be detained for longer than seventy-two hours or ninety-six hours when the specified forty-eight-hour period terminates on a Saturday, Sunday or legal holiday. For purposes of this section, a Saturday, Sunday, or legal holiday shall be deemed to include the time period up to 8:00 A.M. of the next day which is not a Saturday, Sunday, or legal holiday.

- C. Any person ordered to appear before the court pursuant to this section shall be informed of his right to be represented by counsel. The court shall provide the person with reasonable opportunity to employ counsel at his own expense, if so requested. If the person is not represented by counsel, the court shall appoint an attorney-at-law to represent him. Counsel so appointed shall be paid a fee of seventy-five dollars and his necessary expenses.

§ 32.1-48.04. Isolation hearing; conditions; order for isolation; right to appeal.

- A. The isolation hearing shall be held within forty-eight hours of the execution of any temporary detention order issued or, if the forty-eight-hour period terminates on a Saturday, Sunday or legal holiday, the isolation hearing shall be held within seventy-two or ninety-six hours of the execution of any such temporary detention order.

Prior to the hearing, the court shall fully inform the person of the basis for his detention, if any, the basis upon which he may be isolated, and the right of appeal of its decision.

- B. An order for isolation in the person's home or another's residence or an institution or other place, including a jail when no other reasonable alternative is available, may be issued upon a finding by the court that the following conditions are met:
 - 1. The person is infected with a communicable disease.
 - 2. The person is engaging in at-risk behavior.
 - 3. The person has demonstrated an intentional disregard for the health of the public by engaging in behavior which has placed others at risk for infection.
 - 4. There is no other reasonable alternative means of reducing the risk to public health.
- C. Any order for isolation in the person's home or another's residence or an institution or other place shall be valid for no more than 120 days, or for a shorter period of time if the Commissioner or

his designee, or the court upon petition, determines that the person no longer poses a substantial threat to the health of others. Orders for isolation in the person's home or another's residence may be enforced through the use of electronic devices. Orders for isolation may include additional requirements such as participation in counseling or education programs. The court may, upon finding that the person no longer poses a substantial threat to the health of others, issue an order solely for participation in counseling or educational programs.

- D. Isolation orders shall not be renewed without affording the person all rights conferred in this article.

Any person under an isolation order pursuant to this section shall have the right to appeal such order to the circuit court in the jurisdiction in which he resides. Such appeal shall be filed within thirty days from the date of the order. Notwithstanding the provisions of §19.2-241 relating to the time within which the court shall set criminal cases for trial, any appeal of an isolation order shall be given priority over all other pending matters before the court, except those matters under appeal pursuant to § 37.1-67.6, and shall be heard as soon as possible by the court. The clerk of the court from which an appeal is taken shall immediately transmit the record to the clerk of the appellate court.

The appeal shall be heard de novo. An order continuing the isolation shall only be entered if the conditions set forth in subsection B are met at the time the appeal is heard.

If the person under an isolation order is not represented by counsel, the judge shall appoint an attorney-at-law to represent him. Counsel so appointed shall be paid a fee of \$150 and his necessary expenses. The order of the court from which the appeal is taken shall be defended by the attorney for the Commonwealth.

ARTICLE 3.1. Control of Rabies. (See page B-15)

ARTICLE 4. Tuberculosis.

§ 32.1-49. Tuberculosis required to be reported.

The Board shall include tuberculosis in the list of diseases provided for in §32.1-35 which are required to be reported.

§ 32.1-50. Examination of persons suspected of having tuberculosis.

Any local health director may request any person having or reasonably suspected of having tuberculosis to be examined immediately for the purpose of ascertaining the presence or absence of the disease and determining the degree of communicability, if any. Such examination may be made by any licensed physician selected by such person at his own expense or by the local health director at no cost to such person.

§ 32.1-53. Facilities and contracts for treatment of tuberculosis patients.

The Board may construct and operate hospitals and other facilities for the diagnosis and treatment of tuberculosis or enter into contractual arrangements with medical schools and hospitals in the Commonwealth for the care and treatment of tuberculosis patients.

§ 32.1-54. Commissioner authorized to charge patients for care.

When a tuberculosis patient is admitted to a facility operated by the Board or under contract with the Board, the Commissioner shall determine whether such patient or any person legally liable for such patient's support is able to pay in whole or in part for such patient's care. In making such determination, the Commissioner shall consider whether such patient or other person can make such payment and meet his other financial responsibilities for the support of himself and his family. Such determination may be made from time to time according to the circumstances of each case. If the Commissioner determines that a patient or person legally liable for his support can pay for the cost of his care or a portion thereof, the Commissioner shall collect for the cost of such care the actual average per diem cost or such portion thereof as the Commissioner may determine the patient should pay. The Commissioner shall also collect any third-party payments as may be available for the care and treatment of such patient unless other contractual arrangements are made.

ARTICLE 5. Venereal Diseases.

§ 32.1-55. Definition.

As used in this article:

"*venereal disease*" includes syphilis, gonorrhea, chancroid, granuloma inguinale, lymphogranuloma venereum and any other sexually transmittable disease determined by the Board to be dangerous to the public health.

§ 32.1-55.1. Anonymous testing sites for human immunodeficiency virus.

From such funds as are appropriated for this purpose, the Board of Health shall make available in all health services areas of the Commonwealth anonymous testing for infection with human immunodeficiency virus.

§ 32.1-56. Information to be provided patients.

It shall be the duty of every physician or other person who examines or treats a person having a venereal disease to provide such person with information about the disease, including, as a minimum, the nature of the disease, methods of treatment, measures used in preventing the spread of such disease, and the necessity of tests to ensure that a cure has been accomplished.

§ 32.1-57. Examination, testing and treatment; failure to comply with order of examination.

- A. A local health director may require any person suspected of being infected with any venereal disease to submit to examination, testing and treatment if necessary.
- B. If any such person refuses to submit to an examination, testing or treatment or to continue treatment until found to be cured by proper test, the local health director may apply to the appropriate circuit court for an order compelling such examination, testing or treatment. Any person willfully failing to comply with such order shall be punishable as for contempt of court.
- C. If a person infected with venereal disease is required by the local health director to receive treatment therefor and such person receives such treatment from the local health department, no fee shall be charged.

§ 32.1-58. Persons convicted of certain crimes to be examined, tested and treated.

Each person convicted of a violation of §18.2-346 or §18.2-361 shall be examined and tested for venereal disease and treated if necessary.

§ 32.1-59. Examination and treatment in certain institutions.

Every person admitted to any state correctional institution and every person who is confined to a state hospital for the mentally ill or mentally retarded shall be examined and tested for venereal disease. If any such person is found to be infected with a venereal disease, the person in charge of such institution shall promptly provide treatment and shall report such case as provided in §32.1-37.

§ 32.1-60. Prenatal tests required.

Every physician attending a pregnant woman during gestation shall examine and test such woman for such venereal diseases as the Board may designate within fifteen days after beginning such attendance. Every other person permitted by law to attend upon pregnant women but not permitted by law to make such examinations and tests, shall cause such examinations and tests to be made by a licensed physician or clinic. Serological tests required by this section may be performed by the Department of General Services, Division of Consolidated Laboratory Services (DCLS).

ARTICLE 6. Prevention of Blindness from Ophthalmia Neonatorum.

§ 32.1-61. Definition.

As used in this article:

"ophthalmia neonatorum" means any inflammation, swelling or unusual redness in one or both eyes of any infant, either apart from or together with any unnatural discharge from the eye or eyes of such infant, independent of the nature of the infection, if any, occurring at any time within two weeks after the birth of such infant.

§ 32.1-62. Procedure upon infant's birth.

In order to prevent ophthalmia neonatorum, the physician, nurse or midwife in charge of the delivery of a baby or, if none, the first attending physician shall, immediately after the baby's birth, perform upon such baby the procedure prescribed by the Board. Such action shall be duly recorded in the medical record of the baby.

§ 32.1-63. Duty of physician, midwife or nurse noting ophthalmia neonatorum.

It shall be the duty of any physician, midwife or nurse who notes ophthalmia neonatorum within two weeks after the birth of an infant to perform or cause to be performed such tests as are necessary to ascertain the cause of such inflammation and to institute or have instituted appropriate therapy. When the cause of such inflammation is ascertained to be gonococcus, such physician, nurse or midwife shall report the infection to the local health director or the Commissioner as provided in §32.1-36.

§ 32.1-64. Duty of Board to provide for treatment.

The Board shall provide for the gratuitous distribution of the necessary treatment approved by it for ophthalmia neonatorum, together with proper directions for the use and administration thereof, to all physicians, midwives and hospitals requesting it. The Board shall provide free of charge in medically indigent cases the necessary treatment for ophthalmia neonatorum when the cause is ascertained to be gonococcus.

ARTICLE 9. Statewide Cancer Registry.

§ 32.1-70. Information from hospitals, clinics, certain laboratories and physicians supplied to Commissioner; statewide cancer registry.

- A. Each hospital, clinic and independent pathology laboratory shall make available to the Commissioner or his agents information on patients having malignant tumors or cancers. A physician shall report information on patients having cancers unless he has determined that a hospital, clinic or in-state pathology laboratory has reported the information. This reporting requirement shall not apply to basal and squamous cell carcinoma of the skin. Such information shall include the name, address, sex, race, diagnosis and any other pertinent identifying information regarding each such patient and shall include information regarding possible exposure to Agent Orange or other defoliants through their development, testing or use or through service in the Vietnam War. Each hospital, clinic, independent pathology laboratory, or physician shall provide other available clinical information as defined by the Board of Health.
- B. From such information the Commissioner shall establish and maintain a statewide cancer registry. The purpose of the statewide cancer registry shall include but not be limited to:
 - 1. Determining means of improving the diagnosis and treatment of cancer patients.
 - 2. Determining the need for and means of providing better long-term, follow-up care of cancer patients.
 - 2a. Conducting epidemiological analyses of the incidence, prevalence, survival, and risk factors associated with the occurrence of cancer in Virginia.
 - 3. Collecting data to evaluate the possible carcinogenic effects of environmental hazards including exposure to dioxin and the defoliant, Agent Orange.
 - 4. Improving rehabilitative programs for cancer patients.
 - 5. Assisting in the training of hospital personnel.
 - 6. Determining other needs of cancer patients and health personnel.

§ 32.1-71. Confidential nature of information supplied; publication; reciprocal data-sharing agreements.

- A. The Commissioner and all persons to whom information is submitted in accordance with §32.1-70 shall keep such information confidential. No publication of any such information shall be made except in the form of statistical or other studies which do not identify individual cases.
- B. The Commissioner may enter into reciprocal data-sharing agreements with other cancer registries for the exchange of information. Upon the provision of satisfactory assurances for the preservation of the confidentiality of such information, patient-identifying information may be exchanged with other cancer registries which have entered into reciprocal data-sharing agreements with the Commissioner.

III. RABIES CONTROL

ARTICLE 3.1. Control of Rabies. [from Chapter 2 of Title 32.1]

§ 32.1-48.1. Regulation of State Health Commissioner declaring existence of rabies; display and publication.

Whenever the State Health Commissioner is informed that an outbreak of rabies has occurred in a county or city, he may, after consulting with the Commissioner of Agriculture

and Consumer Services and the Executive Director of the Department of Game and Inland Fisheries, adopt a regulation declaring the existence of rabies in such county or city and containing such requirements as are hereinafter set forth. Such regulations shall be prominently displayed throughout the county or city and shall be published therein by signs or otherwise to call the attention of the public to the existence of such outbreak.

§ 32.1-48.2. Regulation of Commissioner requiring vaccination or inoculation of dogs.

When the State Health Commissioner has declared that an outbreak of rabies exists in a county or city, he may adopt a regulation requiring all dogs therein to be vaccinated or inoculated against rabies, with such exceptions as he deems appropriate. Such regulation shall set forth the persons by whom and the time within which such vaccination or inoculation may be required. The State Health Commissioner may establish such clinics and furnish other services and supplies as will enable the prompt vaccination or inoculation of all dogs in such county or city.

§ 32.1-48.3. Regulations of Commissioner covering local ordinances and requirements.

If the governing body of the county or city in which the outbreak exists does not adopt, under §§3.1-796.93, 3.1-796.95, 3.1-796.96, 3.1-796.98 and 3.1-796.100, ordinances, regulations and measures to prohibit the running at large of dogs and to prevent the spread of rabies, the State Health Commissioner is authorized to adopt regulations providing for the matters contained in such sections and enforce the same in the same manner as if they had been specifically adopted by the governing body of the county or city involved, and the provisions of such sections shall apply mutatis mutandis to the regulations adopted by the Commissioner hereunder.

§ 32.1-48.4. Commissioner to cooperate with local governing bodies and agencies.

The Commissioner shall, insofar as practicable, cooperate with the local governing body and agencies of the county or city involved to the end that a joint program may be adopted and enforced for the reduction and elimination of rabies.

**ARTICLE 4. Authority of Local Governing Bodies and Licensing of Dogs.
[from Chapter 27.4 of Title 3.1]**

§ 3.1-796.97:1. Rabies inoculation of dogs and domesticated cats; availability of certificate .

The owner or custodian of all dogs and domesticated cats four months of age and older shall have them currently vaccinated for rabies by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises. The supervising veterinarian on the premises shall provide the owner of the dog or the custodian of the domesticated cat with a certificate of vaccination. The owner of the dog or the custodian of the domesticated cat shall furnish within a reasonable period of time, upon the request of an animal control officer, humane investigator, law-enforcement officer, State Veterinarian's representative, or official of the Department of Health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species.

§ 3.1-796.98. Rabid animals.

When there is sufficient reason to believe that a rabid animal is at large, the governing body of any county, city or town shall have the power to pass an emergency ordinance which shall become effective immediately upon passage, requiring owners of all dogs and cats therein to keep the same confined on their premises unless leashed under restraint of the owner in such a manner that persons

or animals will not be subject to the danger of being bitten by the rabid animal. Any such emergency ordinance enacted pursuant to the provisions of this section shall be operative for a period not to exceed thirty days unless renewed by the governing body of such county, city or town. The governing body of any county, city or town shall also have the power and authority to pass ordinances restricting the running at large in their respective jurisdiction of dogs and cats which have not been inoculated or vaccinated against rabies and to provide penalties for the violation thereof.

Dogs or cats showing active signs of rabies or suspected of having rabies shall be confined under competent observation for such a time as may be necessary to determine a diagnosis. If confinement is impossible or impracticable, such dog or cat shall be euthanized by one of the methods approved by the State Veterinarian as provided in § 3.1-796.96.

Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the local health department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

Any dog or cat, for which no proof of current rabies vaccination is available, and which is exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal believed to be afflicted with rabies, shall be confined in a pound, kennel or enclosure approved by the health department for a period not to exceed six months at the expense of the owner; however, if this is not feasible, the dog or cat shall be euthanized by one of the methods approved by the State Veterinarian as provided in §3.1-796.96. A rabies vaccination shall be administered prior to release. Inactivated rabies vaccine may be administered at the beginning of confinement. Any dog or cat so bitten, or exposed to rabies through saliva or central nervous system tissue, in a fresh open wound or mucous membrane with proof of a valid rabies vaccination, shall be revaccinated immediately following the bite and shall be confined to the premises of the owner, or other site as may be approved by the local health department, for a period of ninety days.

At the discretion of the director of a local health department, any animal which has bitten a person shall be confined under competent observation for ten days, unless the animal develops active symptoms of rabies or expires before that time. A seriously injured or sick animal may be humanely euthanized as provided in §3.1-796.96, and its head sent to the Division of Consolidated Laboratory Services of the Department of General Services, or the local health department, for evaluation.

When any potentially rabid animal, other than a dog or cat, exposes or may have exposed a person to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, that animal shall be confined at the discretion of a local health director in a manner approved by the health department or humanely euthanized as provided in §3.1-796.96 and its head sent to the Division of Consolidated Laboratory Services of the Department of General Services or the local health department for evaluation.

When any animal, other than a dog or cat, is exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal believed to be afflicted with rabies, that newly exposed animal shall be confined at the discretion of a local health director in a manner approved by the health department or humanely euthanized as provided in §3.1-796.96.

§ 3.1-796.99. Inoculation for rabies at animal shelters.

Dogs and cats being adopted from an animal shelter during the period an emergency ordinance is in force, as provided for in §3.1-796.98 may be inoculated for rabies by a certified animal technician at such shelter if the certified animal technician is under the immediate and direct supervision of a licensed veterinarian.

§ 3.1-796.100. Regulations to prevent spread of rabies and running at large of vicious dogs .

The governing body of any county, city or town may adopt such ordinances, regulations or other measures as may be deemed reasonably necessary to prevent the spread within its boundaries of the disease of rabies, and to regulate and control the running at large within its boundaries of vicious or destructive dogs. Penalties may be provided for the violation of any such ordinances. If the ordinance declares the existence of an emergency, then the ordinance shall be in force upon passage.

ARTICLE 8. Miscellaneous Dangerous Conduct.
[from Chapter 7 of Title 18.2]

§ 18.2-313.1. Withholding information about possibly rabid animal; penalty.

It shall be unlawful for any person to knowingly withhold information from, or knowingly give false information to any lawfully authorized governmental agent which would reasonably lead to the discovery or location and capture of any animal reasonably identifiable as one which has bitten a human being.

Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

IV. PENALTIES

ARTICLE 11. Penalty.
[from Chapter 2 of Title 32.1]

§ 32.1-73. Failure to comply with provisions; grounds for revocation of license or permit.

The failure of any physician, nurse or midwife to comply with the provisions of §32.1-60, §32.1-62 or §32.1-65 shall, in addition to any other penalty prescribed by law, constitute grounds for revocation of the license or permit of such physician, nurse or midwife by the board issuing such license or permit.

ARTICLE 4. Penalty.
[from Chapter 1 of Title 32.1]

§ 32.1-27. Penalties, injunctions, civil penalties and charges for violations.

- A. Any person willfully violating or refusing, failing or neglecting to comply with any regulation or order of the Board or Commissioner or any provision of this title shall be guilty of a Class 1 misdemeanor unless a different penalty is specified.
- B. Any person violating or failing, neglecting, or refusing to obey any lawful regulation or order of the Board or Commissioner or any provision of this title may be compelled in a proceeding instituted in an appropriate court by the Board or Commissioner to obey such regulation, order or provision of this title and to comply therewith by injunction, mandamus, or other appropriate remedy or, pursuant to §32.1-27.1, imposition of a civil penalty or appointment of a receiver.
- C. Without limiting the remedies which may be obtained in subsection B of this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to subsection B shall be subject, in the discretion of the court, to a civil penalty not to exceed \$10,000 for each violation, which shall be paid to the general fund. Each day of

violation shall constitute a separate offense. In cases involving environmental pollution, such civil penalties may, in the discretion of the court assessing them, be directed to be paid into the treasury of the county, city or town in which the violation occurred, to be used for the purpose of abating environmental pollution therein in such manner as the court may, by order, direct, except that where the owner in violation is such county, city or town itself, or its agent, the court shall direct such penalty to be paid into the state treasury.

- D. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Board or Commissioner or any provision of this title, the Board may provide, in an order issued by the Board against such person, for the payment of civil charges for past violations in specific sums, not to exceed the limits specified in §32.1-27.1 and subsection C of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under §32.1-27.1 and subsection C of this section.